

SENATE, No. 2805

[Senate, July 15, 2008 – New text, printed as amended, to House Bill relative to patient safety (House, No. 4783).]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND EIGHT

1 SECTION 1. Chapter 6A of the General Laws is hereby amended by inserting after
2 section 16G the following section:—

3 Section 16H. A nursing advisory board is hereby established within, but not subject to,
4 the control of the executive office of health and human services. The advisory board
5 shall consist of 8 members who shall have a demonstrated background in nursing or
6 health services research and who shall represent the continuum of health care settings and
7 services, including, but not limited to, long-term institutional care, acute care,
8 community-based care, public health, school care, and higher education in nursing. The
9 members shall be appointed by the governor from a list of 10 individuals recommended
10 by the board of registration in nursing and a list of 10 persons recommended by the
11 Massachusetts Center for Nursing, Inc. The advisory board shall elect a chair from
12 among its members and adopt bylaws for its proceedings. Each of the 8 members
13 appointed by the governor shall serve for a term of 3 years, except that in making his
14 initial appointments, the governor shall appoint 2 members to serve for a term of 1 year, 2

15 members to serve for a term of 2 years, 4 members to serve for a term of 3 years. Persons
16 may be appointed to fill vacancies who shall serve for the unexpired term. No member
17 shall serve more than 2 consecutive full terms.

18 The advisory board shall:

19 (a) advise the governor and the general court on matters related to the practice of
20 nursing, including the shortage of nurses across the commonwealth in all settings and
21 services, including long-term institutional care, acute care, community-based care, public
22 health, school care and higher education in nursing;

23 (b) develop a research agenda, apply for federal and private research grants, and
24 commission and fund research projects to fulfill the agenda;

25 (c) recommend policy initiatives to the governor and the general court;

26 (d) prepare an annual report and disseminate the report to the governor, the
27 general court, the secretary of health and human services, the director of labor and
28 workforce development and the commissioner of public health; and

29 (e) consider the use of current government resources, including, but not limited
30 to, the Workforce Training Fund as provided for time to time in the general
31 appropriations act.

32 Any funds allocated to the advisory board shall be deposited with the state
33 treasurer and may be expended by the advisory board in accordance with the conditions
34 of the grants, without specific appropriation. The advisory board may expend for
35 services and other expenses any amounts that the general court may appropriate. The
36 advisory board shall conduct at least 1 public hearing during each year.

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39 SECTION 2. Chapter 10 of the General Laws is hereby amended by adding the
40 following section:-

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42 Section 75. There shall be established and set up on the books of the
43 commonwealth a separate fund, to be known as the Clara Barton Nursing Excellence
44 Trust Fund. The fund shall consist of all revenues from public and private sources as
45 appropriations, gifts, grants, donations, and from the federal government as
46 reimbursements, grants-in-aid or other receipts to further the purposes of said fund in
47 accordance with the provisions of sections 19F through 19K inclusive, of chapter 15A,
48 and any interest or investment earnings on such revenues. All revenues credited to said
49 fund under this section shall remain in said fund and shall be expended, without further
50 appropriation, for applications pursuant to sections 19F to 19J, inclusive, of chapter 15A.
51 The state treasurer shall deposit and invest monies in said fund in accordance with the
52 provisions of sections 34, 34A and 38 of chapter 29 in such a manner as to secure the
53 highest rate of return consistent with the safety of the fund. The fund shall be expended
54 only for the purposes stated in said sections 19F to 19J, inclusive, of said chapter 15A, at
55 the direction of the chancellor of the system of public higher education, hereinafter
56 referred to as the chancellor. On February 1 of each year, the state treasurer shall notify
57 the chancellor of any projected interest and investment earnings available for expenditure
58 from said fund for each fiscal year.

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60 SECTION 3. Chapter 15A of the General Laws is hereby amended by inserting

61 after section 19E the following 6 sections:-

62
63 Section 19F. The department of higher education shall, subject to appropriation,
64 to establish a nursing student loan repayment program, to be known as the Clara Barton
65 Nursing Loan Repayment Program, for the purpose of encouraging existing nurses or
66 nurse student graduates committed to becoming clinical instructors or nursing faculty to
67 teach nursing within the commonwealth by providing financial assistance for the
68 repayment of qualified education loans and a nursing faculty position payment program,
69 to be known as the Clara Barton Nurse Educators Assistance Program, by providing
70 compensation to health care facilities to cover nurse scheduled work time spent teaching,
71 as further defined herein. The department shall adopt guidelines governing the
72 implementation of the programs, which shall include, but need not be limited to, the
73 following:

74 (1) eligibility for the loan repayment program shall be limited to persons who
75 have graduated in the top 25 percent of their undergraduate or graduate class, as certified
76 by the college, university or school of nursing attended by such applicant, or who are
77 otherwise qualified;

78 (2) eligibility for the loan repayment program shall be limited to persons licensed
79 to practice nursing in the commonwealth or entering the nursing profession after
80 September 1, 2008, and eligibility for the nurse educators assistance program shall be
81 limited to persons entering the teaching of nursing profession at a college, university or
82 school of nursing within the commonwealth after such date;

83 (3) the commonwealth shall repay a participant's student loan at a rate not to

84 exceed \$200 per month for a period not to exceed 48 months; provided, however, that
85 participants who work less than full time shall receive loan repayment amounts in direct
86 proportion to the percentage of full time worked;

87 (4) repayment shall be made to the participant annually upon the presentation by
88 the participant of satisfactory evidence of payments under the loan;

89 (5) payments by the commonwealth shall cover only loan payments made by the
90 participants in the months during which the participant is employed as a nurse in, but not
91 limited to, acute care hospitals, long term care or chronic disease hospitals, acute
92 inpatient rehabilitation hospitals, public health hospitals, psychiatric and mental health
93 clinics or hospitals, community or neighborhood health centers, rehabilitation centers or
94 nursing homes, or as a home health, school or public health nurse in the commonwealth,
95 or is employed to teach nursing at a college, university, or school of nursing in the
96 commonwealth. Payments by the commonwealth shall not commence until a participant
97 has been employed as a nurse in the commonwealth, or as a teacher of nursing at a
98 college, university or school of nursing in the commonwealth, for at least 1 year.

99 Participants must be employed as nurses in the commonwealth, or as teachers of nursing
100 at a college, university or school of nursing in the commonwealth, for a minimum period
101 of 4 years during the loan repayment period, or reimburse the commonwealth for the
102 expense incurred during the repayment period;

103 (6) in the case of those employed as nurses, the department may limit the program
104 to those who work in communities designated by the department of public health, in
105 consultation with the federal department of health and human services and the center for
106 health professions at Worcester State College, as underserved communities; and

(7) the program shall set forth an affirmative action policy and specific annual affirmative action goals and the department shall annually publish a report detailing its efforts to publicize the loan repayment program in order to advance the goals of this affirmative action policy and its success in meeting those goals.

For the purposes of this section, “qualified education loan” shall mean any indebtedness including interest on such indebtedness incurred to pay tuition or other direct expenses incurred in connection with the pursuit of a practical or diploma nursing program, an associate’s, baccalaureate, or graduate degree by an applicant, but shall be limited to any loan which was or is administered by the financial aid office of a practical or diploma nursing program, two year or 4 year college, university, or school of nursing at which the applicant was enrolled as a practical or diploma nursing school student, or as an undergraduate or graduate student, and which loan has been secured through a state or federal student loan program, or which was or is administered by a commercial or institutional lender.

Section 19G. The department of higher education, subject to appropriation, is authorized and directed to establish an expert nursing corps program, to be known as the Clara Barton Expert Nursing Corps Program, for the purpose of building a group of recognized nurses of high achievement in the profession who shall serve to mentor incoming or novice nurses and to further the goals of the nursing profession. The department shall adopt guidelines governing the implementation of the program. Such guidelines shall include, but need not be limited to, the following provisions:

(1) the department may select expert nurses who achieve such status by obtaining

130 specialty, modular, or advanced practice certification from the American Nurses
131 Credentialing Center, who remain in good standing with the board of registration in
132 nursing, who are current on their continuing education units, and who agree to mentor
133 incoming or novice nurses; provided, however, that the department may develop and
134 include alternatives to such American Nurses Credentialing Center program provided
135 such alternatives maintain equivalent or higher standards of excellence in the practice of
136 nursing;

137 (2) the department, subject to appropriation, may provide expert nurses with
138 partial or full reimbursement for the assessment costs of said American Nurses
139 Credentialing Center certification and shall provide expert nurses with ongoing salary
140 bonuses; provided, however, that such ongoing salary bonuses shall be limited to \$5,000
141 per year not to exceed 5 years and that such expert nurses continue to remain in good
142 standing with the board of registration in nursing and employed in nursing in the
143 commonwealth, and continue to mentor incoming or novice nurses. The department shall
144 require evaluation on an annual basis of the efficacy of the incentive provided to
145 participants in the expert nurse mentoring program. The department may authorize
146 grants, in addition to the bonus to the expert nurse, to the health care facility, school
147 district, local health agency, home health agency, or nursing home in the commonwealth
148 of such expert nurse to facilitate time for the expert nurse to engage in mentoring activity;
149 to increase the number of clinical facilities or to allow for the hiring of more nurse
150 faculty; provided further, that said health care facility, school district, local health agency,
151 home health agency, or nursing home in Massachusetts shall continue the expert nurse's
152 salary at a level irrespective of the expert nurse's salary bonus;

153 (3) the department shall set forth an outreach plan to attract underrepresented
154 populations and nurse specialists in the nursing profession in areas which are designated
155 by the department of public health, in consultation with the federal department of health
156 and human services, as underserved communities.

157 (4) the department, subject to appropriation, may provide experienced nurses with
158 graduate degrees and such courses in education as the department may determine, who
159 have agreed to teach in a nursing education program in the Commonwealth with ongoing
160 salary bonuses to reasonably compensate for the difference between clinical nursing
161 salaries and nursing faculty salaries. Such ongoing salary bonuses for nurse scholars
162 shall be limited to \$25,000 per year not to exceed 10 years for nursing faculty who carry
163 a full-teaching load as defined by the institution; provided, that such nurse scholar
164 continues to remain in good standing with the board of registration in nursing and
165 employed in nursing education in the commonwealth, and continues to educate nurses;
166 provided further, that institution of higher education that employs a nurse scholar shall
167 continue the nurse scholar's salary at a professional level irrespective of the expert
168 nurse's salary bonus.

169
170 Section 19H. The department of higher education shall make available grants to
171 institutions of higher education and health care institutions in the commonwealth for the
172 purpose of fostering partnerships between higher education institutions and clinical
173 agencies that promote the recruitment and retention of nurses. Such grants may also be
174 made available to such institutions for the purpose of establishing and maintaining nurse
175 mentoring or nursing internship programs. The department shall adopt guidelines

governing the implementation of this section.

Section 19I. The department of higher education shall, subject to appropriation, to establish a scholarship program, to be known as the Clara Barton Scholarship Program, to provide students in approved Massachusetts' colleges, universities and schools of nursing with scholarships for tuition and fees for the purpose of encouraging outstanding Massachusetts' students, to work as nurses in, but not limited to, acute care hospitals, psychiatric and mental health clinics or hospitals, community or neighborhood health centers, long term care hospitals, inpatient rehabilitation facilities and other rehabilitation centers, nursing homes, or as a home health, school or public health nurse in the commonwealth, or to teach nursing in colleges, universities, or schools of nursing in the commonwealth. The department shall adopt guidelines governing the implementation of the program. Colleges, universities, and schools of nursing in the commonwealth may administer the Clara Barton Scholarship Program and select recipients, in accordance with guidelines adopted by the department. Scholarships may be made available to full or part time matriculating students in courses of study leading to a degree in nursing or the teaching of nursing. Recipients shall be residents of the commonwealth and outstanding prospects based on objective measures such as leadership skills, clinical knowledge, class rank, test scores, grade point average, income need and such other criteria as the department may determine. In any given year, the department may target awards to students from geographic and nurse specialty areas in the commonwealth determined by the department of public health, in consultation with the federal department of health and human services, and the Center for Health Professions at

Worcester State College, to be areas experiencing an acute shortage of nurses. Scholarship recipients at any public or private institution of higher education in the commonwealth shall receive no more than a \$3,500 scholarship for each academic semester that the recipient remains enrolled at such institution and remains in good standing. The names of recipients of such scholarships shall remain confidential, unless the recipient waives such confidentiality in writing. The department may also, subject to appropriation, provide a scholarship recipient with a housing voucher, in such form and manner as the department may determine, which shall be equal to not more than two hundred dollars per month, that may be utilized by the recipient to assist in paying housing costs, including rent or mortgage payments, while such recipient is enrolled in good standing in the college, university, school of nursing.

The department, in coordination with the board of education and Massachusetts' colleges, universities and schools of nursing, shall aggressively market the existence of the program to high school students to encourage outstanding candidates to apply to nursing or the teaching of nursing programs in institutions of higher education in the commonwealth. Such marketing shall focus on candidates who would otherwise not consider a career in nursing or the teaching of nursing. The department shall set forth an outreach plan to attract underrepresented populations to the nursing profession. Recipients must be employed as a nurse in the commonwealth, or teacher of nursing at a college, university, or school of nursing in the commonwealth, for a minimum period of 3 years following graduation. Recipients who participate in the program but do not complete their college education within 7 years of entering college, or who fail to complete their 3 year nursing commitment within 7 years following graduation from

college, or whose license to practice in Massachusetts is not maintained in good standing, or those who fail to complete their 3 year teaching commitment within 7 years following graduation from college or from a graduate school, if such is required for teaching nursing at a college, university or school of nursing, shall be obligated to repay the commonwealth any tuition, fees, and housing voucher payments advanced to them, with interest set by the department.

Section 19J. The department of higher education shall, subject to appropriation, to develop a program to provide matching grants to any hospital that commits resources or personnel to nurse education programs. Such program shall provide a dollar-for-dollar match for any funds committed by a hospital to pay for nurse faculty positions in publicly funded schools of nursing, including the costs of providing hospital personnel loaned to said schools of nursing.

Section 19K. The department of higher education shall, subject to appropriation, designate a portion of the Clara Barton Nursing Excellence Trust Fund, established in section 75 of chapter 10, to be used for refresher courses and retraining at accredited schools of nursing for licensed registered nurses returning to bedside care, after an absence of more than 1 year, in accordance with such standards as shall be approved by the Board of Registration in Nursing.

SECTION 4. Chapter 111 of the general laws, as appearing in the 2006 official

edition, is hereby amended by inserting after section 56 the following 6 sections:-

Section 56A. In sections 56A to 56F, inclusive, the following words shall have the following meanings:—

“Acuity model”, an assessment tool selected and implemented by a hospital, as recommended by a nursing care committee, that assesses the complexity of patient care needs requiring professional nursing care and skills and aligns patient care needs and nursing skills consistent with professional nursing standards.

“Department”, the department of public health.

“Direct patient care”, care provided by a registered nurse with direct responsibility to oversee or carry out medical regimens or nursing care for one or more patients.

“Health Care Workforce”, personnel that have an effect upon the delivery of quality care to patients, including but not limited to, licensed practical nurses, unlicensed assistive personnel or other service, maintenance, clerical, professional or technical workers and other health care workers.

“Hospital”, a hospital licensed under section 51 of chapter 111 of the general laws, the teaching hospital of the University of Massachusetts medical school, any licensed private or state-owned and state-operated general acute care hospital, or any acute care unit within a state-operated facility except such definition shall not include a licensed non-acute care hospital classified as an inpatient rehabilitation facility, an inpatient psychiatric facility, or as a long term care hospital by the federal Centers for Medicare and Medicaid Services.

“Nurse”, a registered nurse licensed under section 74 of chapter 112 of the general laws or a licensed practical nurse licensed under section 74A of chapter 112 of the general laws.

“Nursing care committee”, an existing or newly created hospital-wide committee or committees of nurses whose functions, in part or in whole, contribute to the development, recommendation, and review of the hospital’s nurse staffing plan established pursuant to subsection (d).

“Nursing care hours”, the number of hours worked by nursing staff that have direct patient care responsibilities for more than 50 per cent of their shift.

“On-Call”, time spent by a nurse who is not currently working on the premises of the hospital, and who is either compensated for availability or as a condition of employment has agreed to be available to return to the hospital on short notice if the need arises.

“Overtime”, the hours worked by a nurse to deliver patient care, beyond the predetermined and regularly scheduled hours.

“Patient days”, the daily average of the number of patients on the unit, as counted at least once during each shift for 24 hours.

“Written staffing plan for nursing care services”, a written plan for guiding the assignment of patient care nursing staff based on multiple nurse and patient considerations that yield minimum staffing levels for inpatient care units and the adopted acuity model aligning patient care needs with nursing skills required for quality patient care consistent with professional nursing standards.

291 Section 56B. (a) Every acute care hospital shall implement a written hospital-wide
292 staffing plan, recommended by a nursing care committee or committees that provide for
293 minimum direct care professional registered nurse-to-patient staffing needs for each
294 inpatient care unit. The written hospital-wide staffing plan shall include, but not limited
295 to, the following:

296 (1) The complexity of complete care, assessment on patient admission, volume of
297 patient admissions, discharges and transfers, evaluation of progress of a patient's health
298 status, ongoing physical assessments, planning for a patient's discharge, assessment after
299 a change in patient condition, and assessment of the need for patient referrals.

300 (2) The complexity of clinical professional nursing judgment needed to design
301 and implement a patient's nursing care plan, the need for specialized equipment and
302 technology, the skill mix of other personnel providing or supporting direct patient care,
303 and involvement in quality improvement activities, professional preparation, and
304 experience.

305 (3) Patient acuity and the number of patients for whom care is being provided.

306 (4) The ongoing assessments of a unit's patient acuity levels and nursing staff
307 needed shall be routinely made by the unit nurse manager or his or her designee.

308 (5) The identification of additional registered nurses available for direct patient
309 care when patients' unexpected needs exceed the planned workload for direct care staff.

310 (6) Appropriate adjustments for staffing levels that may be required during initial
311 orientation and training periods for nurses assigned to new units.

312

(b) In order to provide staffing flexibility to meet patient needs, every acute care hospital shall identify an acuity model for adjusting the staffing plan for each inpatient care unit.

(c) The written staffing plan shall be posted in a conspicuous and accessible location for both patients and direct care staff, as required pursuant to section.

(d) Every acute care hospital shall have a nursing care committee. A hospital shall appoint members of a committee whereby membership shall be limited to the committee's hospital's employees, and at least fifty percent of the members are registered nurses providing direct patient care. A nursing care committee's recommendations must be given significant regard and weight in the hospital's adoption and implementation of a written staffing plan. A nursing care committee or committees shall recommend a written staffing plan for the hospital based on the principles from the staffing components set forth in subsection (c). In particular, a committee or committees shall provide input and feedback on the following:

(i) Selection, implementation and evaluation of minimum staffing levels for inpatient care units.

(ii) Selection, implementation and evaluation of an acuity model to provide staffing flexibility that aligns changing patient acuity with nursing skills required.

(iii) Selection, implementation and evaluation of a written staffing plan incorporating the items described in (i) and (ii) of this subsection.

(iv) Review the following: nurse-to-patient staffing guidelines for all inpatient areas; and current acuity tools and measures in use.

(e) A nursing care committee must address the items described in subsections (b) through (e) semi-annually.

(f) The implementation of a hospital-wide staffing plan shall not result in the understaffing or reductions in staffing levels of the health care workforce.

(g) Nothing in this section shall be construed to limit, alter or modify the terms, conditions or provisions of a collective bargaining agreement entered into by the hospital.

(h) The nurse staffing plan shall be approved by the hospital governing board prior to filing with the department.

(i) Hospitals shall file the nurse staffing plan with the department not later than 2 weeks following the start of the hospital's fiscal year.

(j) Each hospital shall include with said filing an aggregate review of significant variations of its actual staffing for the prior hospital fiscal year as compared with the nurse staffing plan filed with the department for that prior year. Also included with said filing, shall be a description of the actions taken by said hospital should there have been

357 significant variations. Said plan shall be published on the department web site and
358 available to the public.

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360 (k) Current nursing staff schedules shall be available upon request at each patient
361 care unit. Each schedule shall list the daily assigned nursing personnel and average daily
362 census for the unit. The actual nurse staffing assignment roster for each patient care unit
363 shall be available to the department of public health upon request at the patient care unit
364 for the effective date of that roster. Upon the roster's expiration, the hospital shall retain
365 the roster for 5 years from the date of its expiration.

366
367 (l) The department shall establish, maintain, and advertise a toll-free telephone
368 line and website for nurses, nursing support staff, patients and patient family members to
369 report perceived violations of a hospital nurse staffing plan. The department shall
370 promulgate regulations providing for the implementation of such a service and
371 for investigating any perceived violation registered through such a service.

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373 Section 56C. (a) The department shall enforce section 56B as follows: If a hospital
374 fails to file its nurse staffing plan within the time required by law, the department shall
375 give immediate notice by mail, postage prepaid, to such hospital of its default. If the
376 hospital omits to file such report after 21 days in which such notice of default has been
377 received, the department shall impose a late fine of \$1,000 per day. The hospital may
378 request an administrative review in writing within 15 days of the date it receives notice of
379 the imposition of a late fine by the department. The request shall state the reasons why

the hospital considers the imposition of the late fine to be incorrect and be accompanied by any supporting evidence and arguments. The department shall notify the hospital, in writing, of the results of the administrative review within 20 days of receipt of request for informal review. Failure of the department to respond within that time shall be considered confirmation of the imposition of the late fine. The department may require a hospital to resubmit the nurse staffing plan if the plan fails to provide the information required and shall, by regulation, establish an administrative fee for review of the plan and for review of any required resubmission of the plan. For any deadline established by the department for a resubmission of a nurse staffing plan, the same procedure for late resubmission shall apply as in the case of the initial, and subsequent annual submissions. Any late fines collected by the department shall be deposited in the Clara Barton Nursing Excellence Trust Fund established pursuant to Section 2 of this act.

(b) If the department determines that there is an apparent pattern of failure by a hospital to maintain or adhere to the filed nurse staffing plan, the hospital may be subject to an inquiry by the department to determine the causes of the apparent pattern. If, after such inquiry, the department determines that an official investigation is appropriate and after issuance of written notification to the hospital, the department may conduct an investigation. Upon completion of the investigation and a finding of noncompliance, the department shall give written notification to the hospital as to the manner in which the hospital failed to comply with this section. Hospitals shall be granted due process during the investigation, which shall include the following: (a) notice shall be granted to hospitals that are noncompliant with section 56B; (b) hospitals shall be afforded the

403 opportunity to submit to the department, through written clarification, justifications for
404 failure to comply with said section 56B; (c) based upon such justifications, the
405 department may determine any corrective measures to be taken, if any. Such measures
406 may include: (i) an official notice of failure to comply; (ii) the imposition of additional
407 reporting and monitoring requirements; (iii) the imposition of fines, not to exceed \$3,000
408 for each finding of noncompliance; (iii) revocation of said facility's license or
409 registration; and (iv) the closing of the particular unit that is noncompliant.

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411 (c) Any facility may appeal any measure or fine sought to be enforced by the
412 department hereunder to the division of administrative law appeals and any such measure
413 or fine shall not be enforced by the department until final adjudication by the division.

414
415 (d) The department may conduct random audits of a hospital's nurse staffing
416 plan to ensure that said plan conforms to the provisions of section 56B.

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418 (e) The department shall promulgate regulations consistent with the provisions of
419 this section.

420
421 Section 56D. (a) Hospitals shall include in their quality improvement programs a
422 process to collect, monitor, and evaluate patient care through the statewide use of
423 evidence-based nurse-sensitive performance measures, to be selected by the department
424 of public health. The department, in consultation with the Betsy Lehman Center, the
425 Health Care Quality and Cost Council, and the Massachusetts Hospital Association, shall

select evidence-based nurse-sensitive performance measures from the nationally recognized measures endorsed by the National Quality Forum (NQF) and shall include, but not be limited to: patient falls, pressure ulcers, physical/sexual assault, pain management, peripheral IV infiltration; staff mix of Registered Nurses (RNs), Licensed Practical Nurses (LPNs), Nurse Assistants (NAs) and Unlicensed Assistive Personnel (UAP); nursing care hours provided per patient day, RN education/certification, and an RN satisfaction survey. The department of public health shall develop a methodology to adjust said nursing care hours per patient day for differences in patient characteristics. The department shall develop a uniform format for hospitals to quarterly report on the selected performance measures the department. The department shall annually report to the general public both hospital-specific performance measure data as well as aggregated industry trends and best practices developed from said reports.

(b) The department shall develop a risk-adjusted methodology to compare patient outcomes using nursing sensitive quality measures as related to registered nursing care per patient day in order to rank nursing care among all acute care hospitals as reported in the quarterly reports submitted pursuant to this section and provide this comparative ranking to the Health Care Quality and Cost Council for public posting in conjunction with other hospital quality measures. None of the information the department discloses to the public may be made available in any form or fashion unless the information has been reviewed, adjusted, and validated according to the following process:

(i) the department shall organize an advisory committee, including representatives from the department, public and private hospitals, direct care nursing staff, nursing leaders, physicians, academic researchers, consumers, health insurance companies, organized labor, and organizations representing hospitals and physicians. The advisory committee must be meaningfully involved in the development of all aspects of the department's methodology for collecting, analyzing, and disclosing the information collected under this section, including collection methods, formatting, and methods and means for release and dissemination.

(ii) The entire methodology for collecting and analyzing the data shall be disclosed to all relevant organizations and to all hospitals that are the subject of any information to be made available to the public before any public disclosure of such information.

(iii) Data collection and analytical methodologies shall be used that meet accepted standards of validity and reliability before any information is made available to the public.

(iv) The limitations of the data sources and analytic methodologies used to develop comparative hospital information shall be clearly identified and acknowledged, including but not limited to the appropriate and inappropriate uses of the data.

(v) To the greatest extent possible, comparative hospital information initiatives shall use standard-based norms derived from widely accepted provider-developed practice guidelines.

(vi) Comparative hospital information and other information that the department has compiled regarding hospitals shall be shared with the hospitals under review prior to

public dissemination of such information and these hospitals have 30 days to make corrections and to add helpful explanatory comments about the information before the publication.

(vii) Comparisons among hospitals shall adjust for patient case mix and other relevant risk factors and control for provider peer groups, when appropriate.

(viii) Effective safeguards to protect against the unauthorized use or disclosure of hospital information shall be developed and implemented.

(ix) Effective safeguards to protect against the dissemination of inconsistent, incomplete, invalid, inaccurate or subjective hospital data shall be developed and implemented.

(x) The quality and accuracy of hospital information reported under this Act and its data collection, analysis, and dissemination methodologies shall be evaluated regularly.

(xi) Only the most basic identifying information from mandatory reports shall be used, and information identifying a patient, employee, or licensed professional shall not be released. None of the information the department discloses to the public under this Act may be used to establish a standard of care in a private civil action.

Section 56E. The department shall establish minimum patient care performance benchmarks for all hospitals based on the evidence-based nurse-sensitive measures collected pursuant to section 56D. The minimum benchmarks shall be based on national and regional quality measurements and shall be developed in consultation with the Betsy Lehman Center, the Health Care Quality and Cost Council, and the Massachusetts

Hospital Association. Hospitals that fail to meet said minimum patient performance benchmarks shall be required by the department to implement a remedial plan design to improve patient care. The plan shall incorporate evidence-based measures and strategies for improving nursing sensitive patient outcome measures which may include specific registered nurse to patient limits, if, in the opinion of the department, such staffing limits are needed to improve patient care safety and health care quality. The setting of nurse patient limits for registered nurses shall not result in the understaffing or reductions in staffing levels of the health care workforce.

Section 56F. (a) A hospital, as defined in this chapter, shall not require or permit a nurse to work more than 12 hours in any given shift and not to exceed 16 hours in a 24 hour period. A nurse may not be disciplined, dismissed, or discharged for refusing to work beyond the hours specified in this paragraph. A nurse that works 12 consecutive hours in a shift must be given at least 8 hours off from any work between shifts.

(b) A hospital shall be limited to using mandatory overtime for emergency situations where the safety of a patient requires its use and when there is no reasonable alternative. Whenever a nurse is required to work mandatory overtime, the hospital shall document, in an aggregated manner, such use in the annual nurse staffing plan as filed with the department pursuant to Chapter 111, Section 56B.

(c) This section shall not apply to:

1. Work performed in response to: (i) any unforeseen declared national, state, or

municipal emergency; (ii) an activation of the health care facility disaster or diversion plan; or (iii) any unforeseen event which is necessary to protect the public health or safety of the patient;

2. Any additional time beyond the scheduled shift, not to exceed one hour, that is needed to: (i) assist with a staff vacancy for the next shift that becomes known at the end of the current shift or, (ii) ensure appropriate and complete documentation and transfer of care to the next shift; or

3. Work necessary to continue critical continuity of care if there is potential harm to the patient or disruption of ongoing treatment if the nurse leaves or transfers care to another.

SECTION 5. Notwithstanding any general or special law to the contrary, the secretary for administration and finance, in consultation with the secretary of health and human services, shall make an investigation and study of all state agencies, or quasi-state agencies, to determine the efficacy of existing programs related to health care workforce development and report back to the legislature by June 30, 2009 with recommendations for the development of new or redesigned state programs to create a pathway for an enhanced health care workforce that will be needed to adequately care for the people of the Commonwealth by 2020. The investigation and study shall include, but not be limited to, identifying ways to increase the number and diversity of people choosing health care occupations, increase retention rates among Massachusetts current health care workers, and recommending measures to coordinate health care worker shortage solutions in the state as determined by the Department of Public Health.

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541 SECTION 6. Notwithstanding any general or special law to the contrary, the
542 department of higher education, in collaboration with the department of labor and
543 workforce development, the board of registration in nursing, the nursing advisory board
544 established pursuant chapter 6A of section 16H, and the Massachusetts Center for
545 Nursing, Inc., in addition to the nurse scholar program established pursuant to subsection
546 4 of section 19F of chapter 15 as inserted by this act, shall make an investigation and
547 study of the nurse faculty shortage in the Commonwealth and report back to the clerks of
548 the senate and house of representatives by June 30, 2009 with recommendations to
549 enhance the nurse faculty pipeline within the state. The investigation and study shall
550 include, but not be limited to, the collection and analysis of nursing data, including:
551 school capacity data including numbers of doctoral and masters prepared faculty;
552 budgeted and vacant positions; projections on intentions to retire; data on the numbers of
553 students who have been turned away or are on waiting lists due to the shortage of
554 budgeted faculty positions; vacant faculty positions; the capability of both undergraduate
555 and graduate schools to develop nursing programs based on the number of qualified
556 undergraduate or graduate students interested in nursing, as well as the number of
557 available faculty to develop a nursing program, or lack of clinical placement sites; the
558 supply of masters and doctoral prepared nurses in the state who might be available to
559 move into education positions; and, the types and components of partnerships between
560 schools and healthcare facilities focused on sharing of resources to enhance nursing
561 education, research or leadership development. The investigation and analysis shall be
562 conducted on a statewide basis and include both publicly funded and private schools to

563 provide comprehensive data on the current and future extent of the faculty shortage. The
564 investigation shall also produce an analysis of the feasibility of developing a web-based,
565 automated scheduling/staffing system for nursing units on a statewide basis that could be
566 made available to health care facilities on a subscription basis.

567
568 SECTION 7. Notwithstanding any general or special law to the contrary, the
569 executive office of housing and economic development, in collaboration with the state
570 board of education, the department of higher education, and the Massachusetts Hospital
571 Association, shall develop a comprehensive statewide plan to promote healthcare
572 professions to the general public. The plan shall include specific recommendations that
573 various state agencies may act upon to further the goals of enhancing public interest in
574 health care professions, including but not limited to, school age children and adults
575 seeking a change in career, and increasing the supply of health care workforce. The
576 department shall complete said plan and file a copy with the clerks of the house of
577 representatives and the senate no later than April 15, 2009.

578
579 SECTION 8. Notwithstanding any general or special law to the contrary, the
580 executive office of health and human services and all agencies, departments and boards
581 within said secretariat, the department of labor and workforce development, the
582 department of higher education and any other state agency, board or department that
583 collects data, conducts surveys or gathers information related to the practice of nursing,
584 the supply of nursing workforce, the supply of nursing faculty or other nursing workforce
585 issues shall regularly submit said data and information to the Massachusetts Center for

Nursing, Inc.

SECTION 9. Notwithstanding any general or special to the contrary, the department of higher education shall establish an advisory committee consisting of 7 members whose membership shall be comprised of professionals representing the nursing profession. At least 4 of the membership of the committee shall be nursing educators from higher education institutions and the remaining members shall be nurses in practice. The advisory committee shall advise the department as to the practice of nursing and how to implement the provisions of this act in a manner that would best benefit the profession of nursing and fulfill the goals of recruiting and retaining people to the profession of nursing.

SECTION 10. Notwithstanding any general or special law the contrary, the department of public health shall develop guidelines for every licensed health care facility to implement an evidence-based policy for safe handling and movement of patients for all shifts and all patient care personnel based on minimum ergonomic standards to reduce the injury rates associated with manual patient handling.

SECTION 11. There shall be a special commission for the purpose of studying the limitations of nursing hours in order to reduce fatigue and to improve patient care in

hospitals. The commission shall review and study the most current studies and clinical evidence regarding limitation of nursing hours and the effect of such limitation on fatigue and patient safety. The special commission shall also work with hospitals to identify the best practices to be used in implementing such limitation on nursing hours. The special commission shall consist of the commissioner of public health, and a representative from the Massachusetts Hospital Association, the Massachusetts Organization of Nurse Executives, the Massachusetts Nurses Association, the Massachusetts Association of Registered Nurses, the Massachusetts Medical Society, the Blue Cross and Blue Shield of Massachusetts, the Massachusetts Association of Health Plans, the Associated Industries of Massachusetts, the Massachusetts League of Community Health Centers, 3 Teaching and 3 Community Hospitals, a Chronic Disease hospital, an Inpatient Rehabilitation hospital, the Massachusetts Coalition for the Prevention of Medical Errors, the Massachusetts Association of Colleges of Nursing, Community Colleges, other nursing organizations, nursing schools and medical schools. The commission shall be jointly chaired by the chairs of the joint committee on health care financing. No action of the commission shall be considered official unless approved by a majority of the members of the commission. The special commission shall file its final report and any recommendations for legislation and revisions to this act regarding limitation of nursing hours to reduce fatigue and improve patient care with the clerks of the senate and house of representatives, the house and senate committees on ways and means, the house and senate chairs of the joint committee on health care financing, the house and senate chairs of the joint committee on public health, the Betsy Lehman Center and with the governor not later than April 15, 2010.

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634 SECTION 12. Section 4 of this act shall take effect on October 1, 2010.

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